

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**IN RE: THE PEARL GROUP, INC**  
**Debtor**

**Case No.: 19-73484 FJS**  
**Chapter 7**

**AMENDED MOTION**  
**TO REQUIRE THE REAL ESTATE AGENTS AND REAL ESTATE BROKERS**  
**TO DISGORGE FEES**

Clara P. Swanson, the Chapter 7 Trustee for the bankruptcy estate of The Pearl Group, Inc., states as follows:

1. On September 19, 2019, the debtor filed a Chapter 11 voluntary petition.
2. Lloyd Renwick was the debtor designee.
3. On November 29, 2019, an Order granting the motion to convert the case to a Chapter 7, and appointed Clara P. Swanson as the Chapter 7 Bankruptcy Trustee.

**823 W. 28<sup>TH</sup> STREET, NORFOLK**

4. On December 17, 2019, this Chapter 7 Trustee filed a motion to employ Real Estate Agent, Denise Cowan, of RE/MAX Ultra, to evaluate, list and market for sale the real property located at 823 W. 28<sup>th</sup> St., Norfolk. (Docket No. 47).
5. On December 23, 2019, the Court entered an Order withdrawing the application to employ Denise Cowan as Real Estate Agent, and the Order states the Real Estate Agent may not be disinterested. (Docket No. 48)
6. On January 30, 2020, the Chapter 7 Trustee filed a Notice and Motion to Sell 823 W. 28<sup>th</sup> St., Norfolk. (Docket No. 53)
7. The motion states that “no brokers’ commission shall be payable from the sale”.

Clara P. Swanson - VSB #21837  
Chapter 7 Bankruptcy Trustee  
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E-mail: clara.swanson@verizon.net

8. Karen Crowley on behalf of Colby Sherwood filed an objection on February 19, 2020, to the sale motion. (Docket No. 57)

9. An Order was entered on March 30, 2020, granting Motion to Approve Settlement and Authorize the Sale of 823 W. 28<sup>th</sup> St., Norfolk, to Jatori Brunson.

10. No commissions were paid to agents.

**3212 LENS AVE., NORFOLK**

11. On January 30, 2020, the Trustee received an offer from Rachel Addleman to purchase 3212 Lens Ave., Norfolk.

12. The Trustee filed a Notice and Motion to Sell 3212 Lens Ave., Norfolk.

13. The motion states that “no brokers’ commissions shall be payable from the sale”. (Docket No. 55)

14. The January 6, 2020, Agreement was signed only by the purchaser and the Trustee. There were no agents.

15. At a Court hearing on March 30, 2020, the Motion to Sell was withdrawn.

16. On March 31, 2020, an Order Withdrawing the Motion to Sell was entered (Docket No. 70)

17. On March 31, 2020, this Trustee received an offer for the sale of 3212 Lens Ave., Norfolk.

18. The Agreement states that Mickey S. Collins (Century 21 Top Producers) is the selling agent and that Denise Cowan (RE/MAX Ultra) is the listing agent.

19. This Trustee crossed out all the information related to Denise Cowan and hand-wrote initials CPS and the date on all the pages.

20. The Trustee filed a Notice of Motion to Sell 3212 Lens Ave., Norfolk.

21. Motion states that “no brokers’ commissions shall be payable from the sale”.

(Docket No. 71)

22. The Court Order granting the motion to sell the property was docketed on April 24, 2020. (Docket No. 80)

23. The closing attorney paid the commissions to the Real Estate Brokers. The HUD stated that the Real Estate Broker for the Buyer, Century 21 Top Producers, and the Real Estate Broker for the Seller, RE/MAX Ultra, each received \$5,397.00 from the settlement agent.

24. On April 30, 2020, the Trustee filed a Report of Sale for 3212 Lens Ave., Norfolk. (Docket No. 83)

25. Although Denise Cowan was not employed she did remain involved and she conveyed the offers from the purchasers.

26. This Trustee spoke with Denise Cowan several times regarding the Lens property.

27. In a January 2021 call with Denise Cowan she stated that she knew she was not hired and that she would not get a commission from me (i.e. the bankruptcy estate).

28. A week later this Trustee called Denise Cowan again and left a message. She called back and stated that she had thought Lloyd Renwick had given me some money but that she now sees that he did not.

29. Denise Cowan stated that she does not have the money to repay and she will just go to Court.

30. This Trustee spoke with the selling agent, Mickey Collins. She was unaware that Denise Cowan was not the selling agent for the Lens property. Ms. Collins stated that if she is required to refund her commission she would sue Denise Cowan and the Real Estate Broker, RE/MAX Ultra.

31. This Trustee did not promptly address the problem when she realized that the real estate commission fees were paid at closing.

32. This Trustee is now requesting that the Court require that the Brokers and Agents refund the commission paid from the sale of 3212 Lens Avenue, or in the alternative require Denise Cowan, Agent and RE/MAX Ultra to refund the \$5,397.00 and that Mickey Collins, Agent and Century 21 Top Producers be authorized to receive the \$5,397.00 seller's commission.

Respectfully Submitted,

/s/Clara P. Swanson  
Clara P. Swanson  
Chapter 7 Bankruptcy Trustee

**CERTIFICATE OF SERVICE**

I hereby certify that on this 2<sup>nd</sup> day of April, 2021, a true and accurate copy of the foregoing Motion was served by first class U.S. Mail (postage prepaid), on the following parties:

Nicholas S. Herron  
Office of the US Trustee  
Room 625, Federal Building  
200 Granby Street  
Norfolk, VA 23510-1814  
*U.S. Trustee*

John E. Bedi  
501 Independence Pkwy.  
Ste. 1  
Chesapeake, VA 23320  
*Debtor's Counsel*

Denise Cowan  
RE/MAX Ultra  
1421 B. Kempsville Road  
Chesapeake, VA 23320  
*Real Estate Agent*

Mickey S. Collins  
Century 21 Top Producers  
316 Office Square Lane  
Virginia Beach, VA 23462  
*Real Estate Agent*

Jeffrey Anderson  
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/s/Clara P. Swanson  
Clara P. Swanson